

REMARKS

Claims 43-99 were pending in the current application. Applicants have amended claims 43, 55, 57, 65, 78, 90, and 92. Reexamination and reconsideration of all pending claims are respectfully requested.

35 U.S.C. § 103

The Office Action rejected claims 43-51, 53-74, 76-86, and 88-99 under 35 U.S.C. §103 based on Shafer et al., U.S. Patent 6,842,298 (“Shafer 298”) in view of U.S. Patent 4,108,794 to Yonekubo (“Yonekubo”). Dependent claims 52, 75, and 87 were rejected under 35 U.S.C. §103 based on Shafer 298 in view of Yonekubo and in further view of Deutsch et al., WO 01/57563 A2.

Applicants note that FIG. 6 of Shafer 298 differs from the drawings of the present application, including but not limited to FIGs. 9-11. Applicants have amended the independent claims to recite the flat surface of the Mangin mirror element, such as the flat surface of Mangin element 1102, and the proximity of the flat surface to the immersion fluid, as is described in, for example, the passage at p. 39, ll. 15-30 of the Specification. Claim 43, for example, now recites “a Mangin mirror group comprising at least one Mangin mirror element having a flat surface, ... wherein the flat surface of at least one Mangin mirror element is proximate the immersion substance ...”

The Shafer 298 reference does not show this. Aside from having no immersion substance nor any indication where such an immersion substance would be placed, Shafer 298 does not show at least one Mangin mirror element having a flat surface proximate the immersion substance.

Shafer 298 shows an implementation wherein, for example, lenses in field lens group 507 and focussing lens group 508 are positioned between the two curved elements 504 and 506 and the specimen. The specimen is not specifically shown in FIG. 5 or FIG. 6 of Shafer 298, but is positioned on the right side of the drawing of FIGs. 5 and 6 and every other applicable embodiment of Shafer 298. Again, no immersion substance is

suggested in Shafer 298, and it is unclear where such an immersion substance such as is called for in Yonekubo would be positioned, but with no flat surface shown in a Mangin mirror element Shafer 298 alone or in combination with Yonekubo cannot be said to show the claimed invention.

For this reason alone, namely the absence of limitations from the cited references alone or in combination, the independent claims 43, 55, 57, 65, 78, 90, and 92, as amended, are not obvious based on Shafer 298 alone or in combination with Yonekubo.

As noted, Shafer 298 materially differs from the present design. Shafer 298 employs the dual Mangin mirror design previously discussed, and the reference fails to provide lenses and optical element groups as shown in the arrangement disclosed and claimed herein.

Applicants dispute the alleged combination of Shafer 298 with the immersion liquid of Yonekubo. It is as if the Office Action alleges that somehow the dual mangin mirror design of Shafer 298 could be combined with or employed with the immersion liquid of Yonekubo. Such a design, if it could work at all, would likely not result in a useful objective, and would fail to provide good imaging or a satisfactory image of the specimen.

Further, there is no reasoning having factual underpinnings supporting the combination of references in the manner suggested in the Office Action. It is only through the use of hindsight that such a combination could be thought feasible, and such a combination would require undue experimentation to fully and properly achieve. It is difficult to see how the designs could be combined, as the Office Action attempts, to produce a workable design having the beneficial properties claimed in the present claims.

Claims 43, 55, 57, 65, 78, 90, and 92, as amended, are therefore not obvious in view of Shafer 722 and Shafer 298. Claims depending from allowable claims 43, 55, 57, 65, 78, 90, and 92 are also allowable as they include limitations not found in the cited

references. Accordingly, it is respectfully submitted that all pending claims, as amended, fully comply with 35 U.S.C. §103.

CONCLUSION

In view of the foregoing, it is respectfully submitted that all claims of the present application are in condition for allowance. Reexamination and reconsideration of all of the claims, as amended, are respectfully requested and allowance of all the claims at an early date is solicited.

It is believed that all of the pending claims have been addressed. However, the absence of a reply to a specific rejection, issue or comment does not signify agreement with or concession of that rejection, issue or comment. In addition, because the arguments made above may not be exhaustive, there may be reasons for patentability of any or all pending claims (or other claims) that have not been expressed. Finally, nothing in this paper should be construed as an intent to concede any issue with regard to any claim, except as specifically stated in this paper, and the amendment of any claim does not necessarily signify concession of unpatentability of the claim prior to its amendment.

Applicants believe that no fees are due in accordance with this Response beyond those included herewith. Should any fees be due, the Commissioner is hereby authorized to charge any deficiencies or credit any overpayment to Deposit Account 502026.

Respectfully submitted,



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